

REMARKS

Reconsideration of this application is respectfully requested. Applicants believe that consideration of this response is proper because they have attempted to comply with every requirement expressly set forth in the previous Office Action dated January 10, 2007 and believe the application is in condition for allowance.

Claims 1, 2, 4 and 5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,417,133 (hereafter "Ebner"). Applicants suggest that Ebner does not anticipate the instant claims as it fails to reveal all elements of Applicant's claims. Specifically, Ebner fails to disclose a method that controls the pH of the platinum metal element solution used to contact the platinum metal element with the carbon substrate. The passage referenced by the Examiner merely describes a noble metal salt deposited on a carbon support.

Applicants' process features a different method of metal deposition than is taught in Ebner, hydrolytic deposition. During the Applicants' contacting step, the pH is maintained from about 2 to about 4 where the platinum metal element is present as an anionic complex. Where the platinum metal element is present as a cationic complex, the pH is kept from about 10.5 to about 13. Control of pH during the contacting step is not revealed in Ebner at all. The term "pH" is not even used in column 16 where deposition of the noble metal is discussed.

Only after metal deposition does Ebner raise the pH to about 10 to hydrolyze it. Hydrolysis of the metal complex is unnecessary with Applicants' simpler process.

Further, Ebner fails to teach use of a different contacting solution based on whether the platinum metal element is present as a cationic or an anionic complex. This reference states only that "[u]sing these more reduced metal precursors leads to less oxidation of the catalyst support". With oxidized carbon surfaces, Applicants choose high pH and cationic Pt complexes over the deprotonated and negatively charged oxygen groups. Ebner et al. never propose the use of cationic Pt complexes. Thus this claim element is not met by the disclosure of Ebner.

Ebner further fails to teach, suggest or even mention the relevance of PZC values in preparing a catalyst of this type. Applicants' claims feature selection of the contacting solution pH, and thereby selection of the platinum metal element complex, depending on the PZC value of the carbon substrate.

It is implied that the disclosure of the BET surface area of the support also reveals its PZC values. No justification is given for this assumption. There is absolutely no connection between BET surface area and PZC. There are carbons of the same PZC but widely varying surface area, and carbons of the same surface area with widely varying PZC.

Even if such a correlation were available, there is no teaching or suggestion that a support of a specific PZC value be used when a contacting solution of a particular pH is employed. This feature is not taught or suggested by the Ebner reference.

The Examiner further suggests that Applicants' claim elements are revealed in column 17 where reactive deposition is used to deposit the noble metal and a promoter with a reducing agent. However, mere use of a reducing agent does not teach or suggest the specific pH specifications of Applicants' claims. Applicant does not claim a catalyst having a specific surface area or promoters. As stated in claim 1, these claims are drawn to a method of making a catalyst that matches very specific values of the substrate PZC, the contacting solution pH and the platinum oxidation state. These claim elements are not taught or suggested by Ebner.

From the above arguments, it is clear that Ebner fails to reveal at least three claim elements of Applicants' claimed invention and the reference cannot anticipate the claims. Therefore, withdrawal of this rejection and allowance of the subject claims is respectfully requested.

Claims 1 and 3-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,676,919 (hereafter "Fischer"). Applicants suggest that the reference fails to reveal all elements of his claims. Fischer fails to

teach at least three aspects of all claims of the instant application. Since all aspects of Applicants' claims are not suggested in Fischer, it cannot anticipate the claims.

Fischer teaches using a contacting solution having a pH greater than 4 for all contacting solutions, regardless of what platinum metal compound is used. There is no suggestion of changing the pH of the contacting solution based upon whether the platinum metal element is present as a cationic or an anionic complex. This reference states only that a pH of greater than 4 is employed. While this statement shows a preference for solutions that are not strongly acidic, there is no teaching that it would be beneficial to modify the pH of the contacting solution based on the metal precursor.

The Examiner has again assumed that the disclosure of carbon as a support also reveals its PZC values. No justification is given for this assumption. However, even if it is true, there is no teaching or suggestion that a support of a specific PZC value be used when a contacting solution of a particular pH is employed.

For these reasons, at least two elements of all claims of the instant application are absent from the teachings of Fischer. Since these claim elements are not revealed by the reference it cannot anticipate the claims. Applicants

respectfully request that this rejection be withdrawn and the subject claims be allowed to issue.

The outstanding application evidences the use of hindsight by the Examiner to read Applicant's invention into a reference that which it is not taught or suggested. Neither of the references of record even refer to PZC values, yet there is an assumption that the claimed requirements for the PZC values have been met merely because a carbon substrate has been used. Additionally, both references utilize methods of depositing the metal onto the substrate different than Applicant's, yet merely because pH and carbon substrates are mentioned, there appears to be an assumption that the methods are the same. Neither of the references avers selecting a contacting solution based on the exact platinum metal element complex that is being utilized. Neither suggests selecting the pH of the contacting solution based upon the PZC value of the carbon substrate. Only by using hindsight can the Examiner recreate Applicants' claims from either of these references.

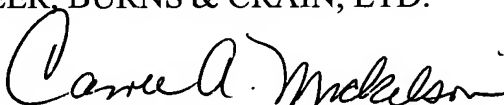
By the above arguments and amendments, Applicants believe that they have complied with all requirements expressly set forth in the pending Office Action. Issuance of a Notice of Allowance on the remaining allowed claims is respectfully requested. Should the Examiner discover there are remaining issues

Appl. No. 11/657,649  
Amdt. dated March 1, 2007  
Reply to Office Action of January 10, 2007

which may be resolved by a telephone interview, she is invited to contact  
Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

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